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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,656	08/28/2001	Arthur E. Uber III	P 265228 VI/98-013.FWCC.	5530
21140	7590	09/07/2007	EXAMINER	
GREGORY L BRADLEY MEDRAD INC ONE MEDRAD DRIVE INDIANOLA, PA 15051			DESAUTO, MATTHEW F	
			ART UNIT	PAPER NUMBER
			3763	
			MAIL DATE	DELIVERY MODE
			09/07/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/939,656	UBER, ARTHUR E.
	Examiner	Art Unit
	Matthew F. DeSanto	3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 05 September 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 13-18,63-65,67-78,80-88,90 and 91 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 13-18,63-65,67,69-78,80-88,90 and 91 is/are rejected.  
 7) Claim(s) 68 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 13-18, 63-65, 67, 69-78, 80-88, 90 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orkin et al. (USPN 5,207,642).

Orkin et al disclose a fluid delivery system and method comprising delivering a first fluid medium through a reusable per-patient disposable fluid path (Fig 2 for visualization, Col 5 Line 25-Col 6 Line 6, Fig 4, 21), disconnecting a fluid path and disposing the fluid path, followed by connecting a second per-patient disposable fluid path to the reusable path (Col 30 Line 50 - Col 31 Line 60), a pressurizing device (Col 2 Line 55 - Col 3 Line 15 and valve with a tube disposed therein (Claim 17, Figure 3, 15a, 14a for embodiments). Additionally Orkin et al disclose a system with pressurizing devices associated with multiple fluid media (Col 2 Line 55-Col 3 Line 15, Col 19 Line 5 - 60), in particular peristaltic pumps (Col 10 Line 10-60), a mixing apparatus (Col 22 Line 50 - Col 23 Line 10, Figures 14a&b, Element 386), is capable of delivering both contrast and diluents media (Col 4 Line 60 - Col 5 Line 60), an air detector (Col 30 Line 45-70), and an additional pump in the fluid path to deliver the mixture of fluid to the catheter via a catheter connector (Figure 15a and 14a, as well as Fig 4 Element C). Orkin et al. further discloses in the brief summary that the output fluid-flow conduit is

formed from a sterile disposable, single-patient delivery system or tubing set, which after a predetermined period of time the system would be replaced with another similar, sterile disposable delivery system. Orkin et al. never discloses that a second disposable portion would be used and connected to a second patient.

At the time of the invention it would have been obvious for one of ordinary skill in the art to modify Orkin et al. to read on the claimed invention. The intention of Orkin et al. is to have reusable portions and multiple disposable portions, as described in the background and summary of Orkin et al. Therefore, one of ordinary skill in the art would understand this as well as known the generally procedure of treating patients and replace each catheter set with each new patient.

The examiner would also like to note, that the step of removing the portion that is inserted into the patient or making that portion disposable is well known in the art because of the possibility of infection and contamination that can be transferred from one patient to another. Therefore, every medical device that injects fluid into a patient has to have a way to sterilize the element that is inserted into the patient. One well-known method is to use disposable elements that will be inserted into each new patient. Therefore, it is well known to replace each medical device that will be inserted into the patient. The examiner would also like to note that the multiplication of the infuse lines is a mere duplication of parts and has been indicated by the courts as taking only routine skill in the art, which would further support the 103 Rejections made above.

***Allowable Subject Matter***

3. Claim 68 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments with respect to claims 13-18, 63-65, 67-78, 80-88, 90, 91 have been considered but are moot in view of the new ground(s) of rejection.

5. The examiner has reopened the case to help expedite prosecution.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F. DeSanto whose telephone number is 571-272-4957. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick LUCCHESI can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Matthew DeSanto  
Art Unit 3763  
August 23, 2007